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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,398	03/07/2001	Peter O. Schmidt	HELLO-08600	4052

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EXAMINER	
BRITTAIN, JAMES R	

ART UNIT	PAPER NUMBER
3677	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/801,398	SCHMIDT ET AL.	
	Examiner	Art Unit	
	James R. Brittain	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 June 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13 and 15-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-11,16 and 17* is/are allowed.

6)☒ Claim(s) *12,13 and 15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 12, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabenecker (UK 2339834) in view of Zuckerman et al. (US 5890634) and Vondrachek (US 3383963).

Rabenecker (figure 1) teaches an adapter in the form of a nub bar made of silicone rubber inserted into cutouts 13, 14 in the segment 8 of the clip so as to increase the friction on smooth materials and can be removed in order to fasten the object, a mobile measuring instrument 7, to thicker materials or belts (page 4, lines 10-14), wherein the clip is coupled to an object and having a segment 8 which secures the object to an article worn by a person, the object having a surface formed as part of the housing 6 adapted to be worn adjacent to the person, the adapter coupled to the segment by insertion into cutouts 13, 14 in the clip and positioned between the segment and the surface of the object, wherein the adapter inherently has an adapter length. The cutouts 13, 14 define apertures between first and second edges that the nub bar is inserted within. The clip segment 8 has a protrusion 15 on the distal end, the protrusion facing toward the surface and having a predetermined length such that the protrusion catches the article between the clip and the object.

The difference is that the adapter bar is nubbed, not flat, and while the adapter bar is inserted into cutouts 13, 14 in the clip so as to have extending portions inserted into the cutouts there is no teaching of the extending feature being substantially centered along a width direction.

However, Zuckerman et al. (figures 1-3, 6, 8) teaches flat adapter structure 40 for providing a flat surface to a clip 26, 28, wherein the clip is used to hang clothing, wherein the adapter has an adapter length. Zuckerman et al. teach that it is desirable to have a flat adapter so that the fabric is neither damaged nor marked rather than use damaging projections or cleats in the clamp jaws (col. 1, lines 19-63). This is accomplished by a resilient friction material 44 (col. 5, lines 28-37). The adapter is also securable and removable by an easy snap-in/snap-out motion so that differing fabrics can be gripped (col. 2, lines 14-32) that provides important versatility. It can be used to cover a roughened or nippled clamping surface so as to provide more versatility (col. 6, lines 51-64). The adapter 40 has a pair of extending portions 54 that are received within slots 52. The slots 52 are defined apertures between edges of the segment. Further, Vondrachek (figures 1-5) teaches that it is desirable to secure removable jaw features 16, 18 to a tool by the extending features 22 comprising shanks that are centered along a width direction as shown in figures 2-5 so as to more evenly distribute the stress to the shank and that such a configuration provides adequate securement to the tool. Though not in applicant's field of endeavor, Vondrachek is analogous art since he seeks to provide secure removable connection of a jaw feature to the tool that is applying force to a held object.

It would have been obvious to modify the adapter of Rabenecker so that the adapter bar is flat in view of Zuckerman et al. teaching it is desirable to have a flat adapter 40 with a surface 44 made of resilient friction material for providing a flat surface to a clip rather than a nubbed

surface so that the fabric is neither damaged or marked rather than use damaging projections or cleats in the clamp jaws (col. 1, lines 19-63) and to use the configuration suggested by Zuckerman et al. as providing a protrusion 54 for attaching the adapter to the segment, wherein the adapter attaches to the segment by fitting the protrusion 54 within a slot 52 located in the segment and defined by apertures in the segment since such structure provides for easy securement and release and further have the extending feature centered along a width direction in view of Vondrachek (figures 1-5) teaching that it is desirable to secure removable jaw features 16, 18 to a tool by the extending features 22 comprising shanks that are centered along a width direction as shown in figures 2-5 so as to more evenly distribute the stress to the shank and that such a configuration provides adequate securement to the tool.

Response to Arguments

Applicant's arguments filed June 7, 2004 have been fully considered but they are not persuasive. Applicant argues that there is no motivation to combine the references. The argument is unpersuasive and it is worthwhile to review the teachings of the applied references to see the motivation for the combination. Rabenecker (GB 2339834) teaches an adaptor structure and describes the nub bar on page 4, lines 10-14:

> for example for a solid leather belt. A nub bar made of silicone rubber inserted into cutouts 13, 14 in the plate 8 increases the friction on smooth materials and can be removed in order to fasten the measuring instrument 7 to thicker materials or belts.

Zuckerman et al. (US 5890634) teaches that it is old and well known to utilize an adapter that is flat and that it is desirable to utilize a flat surfaced adapter when holding fabrics.

Rabenecker utilizes a clip with a removable adapter on clothing. The adapter is nubbed. Zuckerman et al. establishes a level of skill in ordinary experience wherein it is recognized that fabrics can be damaged by projections or cleats in jaw surfaces and that it is desirable that adapters be flat so that damage does not take place as indicated in column 1, lines 19-63:

> In order to avoid this situation, manufacturers of clamp-style garment hangers have designed clamp assemblies with rough or sharp edges to positively grip the garment. However, clamp assemblies with rough garment-engaging surfaces have the potential of damaging delicate materials, such as silk or linen, through extended use. One particular problem is associated with clamp assemblies that employ outwardly protruding nipple-like projections or cleats. The nipple-like projections leave indentations in the cuffs of slacks and the waist bands of skirts. Removal of these indentations normally requires ironing or dry cleaning, or the consumer may have to wear the garment as is due to inadequate time to remove the indentations.
>
> The above-mentioned shortcomings are not only annoying to the consumers but to the manufacturers of garments as well. First, a manufacturer cannot tolerate a clamp-type garment hanger that, with unacceptable frequency, allows the garments to slip through the clamp assemblies and fall to the floor. Manufacturers of garments often ship their expensive garments already hung on clamp-style garment hangers. The garments will wrinkle or become damaged if they fall off the hangers during transit. By the same token, retailers are very particular about product presentation and will not tolerate garment hangers that permit garments to fall onto the floor. Further, neither manufacturers nor retailers can tolerate clamp-type garment hangers that employ rough clamping surfaces or nipped clamping surfaces because such designs have the potential to damage fragile or expensive garments or at least to mar the appearance, thereby detracting from the sales appeal to the purchaser.
>
> Hence, there is a need for a new clamp-type garment hanger that meets the aforenoted criteria. Specifically, the clamp assemblies must positively grip the garment without either marking or adhering to the garment fabric. Further, because the hanger must be capable of use as a shipping hanger by clothing manufacturers, the clamp assembly must be able to maintain its gripping ability under the rough handling resulting from the shocks and bumps to which such hangers are exposed during shipment. It is highly desirable to produce a clamp assembly with a clamping surface that is both relatively smooth to the touch and has the ability to positively grip the garments for an extended period of time. A clamping surface that is relatively smooth to the touch is pleasing to the consumer and assures the consumer that the clamping surface will not damage the garment.

Zuckerman et al. accomplish this by using a resilient material as indicated in column 5, lines 28-37:

> The second side 44 of each gripping pad 40 is fabricated from resilient friction material. The coefficient of friction of the second side 44 is selected so that it is sufficiently high to preclude movement of a garment G, under the weight of the garment, when a normal clamping force is applied to the two clamping members to move them into a clamping position.
>
> Preferred resilient friction materials for the gripping pad second side 44 are tacky materials such as flexible polyvinyl chloride and polypropylene.

Zuckerman et al. indicated that it is desirable that the adapter be securable and removable by an easy snap-in/snap-out motion so that different fabrics can be gripped and that this provides important versatility as indicated in column 2, lines 14-32:

> hanger is lost. Thus the versatility of a hanger is also an important selling point. For example, if a retailer purchaser wishes to hang a delicate satin from a hanger, he may elect to use only a gripping pad which is of a lower coefficient of friction (in order to treat the satin more delicately), a pad that is larger (so that the gripping force is better distributed), or a pad that is thicker (to provide extra protection for the satin). Indeed, during the life of a given garment hanger, it may be desirable at various times for the hanger to suspend various different fabrics, each calling for particular gripping pads adapted for that fabric. Clearly, co-molded or glued gripping pads are not so replaceable by the retail customer.
>
> Further, it is desirable that the gripping pad be securable to the hanger by an easy snap-in motion which initially occurs downstream of the hanger production line so that it does not slow down the hanger production throughput.
>
> Finally, it is desirable for some applications that the gripping pad be secureable and removable from the hanger by an easy snap-in/snap-out motion. On the other hand, in given

Finally, Zuckerman et al. indicate that the adapter can be used to cover a roughened or nippled clamping surface so as to provide more versatility as indicated in column 6, lines 51-64:

It will be appreciated that, for particular applications where it is uncertain whether or not the clamping assemblies will be used with gripping pads 40 or not, the inner clamping surface of each clamping member 26, 28 may be designed to secure in a conventional manner a garment to be hung from the hanger. In other words, the inner clamping surface of the clamping member may have a rough or nipped clamping surface. Thus, the purchaser can use the hanger without the gripping pads or, simply by manual insertion of the gripping pads onto the clamping members, with the gripping pads. In the latter instance, the gripping pads preferably totally block the rough or nipped region of the clamping member so that only the gripping pad contacts the garment to be hung from the hanger.

These portions of Zuckerman et al., which were referred to by column and line number in the statement of the rejection, are reproduced here to show how well known and desirable it is to have a flat surface on an adapter that is securing clothing through a clamping action. Obviously, Zuckerman et al. utilizes the clamps to suspend clothing, but not only for display purposes, the clamps can also be secured to the garments during transport and it is desirable to not have damage under these conditions, too, and that the adapters can be changed, removed or inserted depending on the fabric held or the whim of the purchaser. The desirability of preventing damage to clothing doesn't begin and end with its being suspended, but extends to when it's worn, too. Zuckerman et al. specifically show that it is desirable to utilize an adapter with a flat surface to prevent damage from clamping jaw faces to clothing. This clear overlap of clamping of clothing between jaws establishes Zuckerman et al. as being in an art reasonably pertinent to that of applicant's. Further, this function of recognizing that when clamps secure clothing as taught by Zuckerman et al., the characteristics of clothing are such that they can be damaged and that it is desirable to utilize an adapter with a flat surface and other characteristics whereby it provides a securing clamping effect establishes a motivation to modify the teachings of Rabenecker as indicated.

Vondrachek is used to show the centering of the extending feature 22 relative to the width of the adaptor. While Vondrachek is not used in applicant's field of endeavor, it does suggest that it is desirable to center the extending feature 22 relative to the width of the adaptor in the art of adaptors for gripping tools. The adaptor of Vondrachek inherently enhances the distribution of forces so as to center the force, thereby lessening twisting effect of an off-centered force. Applicant is reminded that "[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

Applicant argues the age of the cited references on page 4, ¶2 of the remarks. However, the age of these references spans but thirty two years and the claimed subject matter is obvious over the combination of references. Additionally, contentions that the reference patents are old are not impressive absent a showing that the art tried and failed to solve the same problem notwithstanding its presumed knowledge of the references. See *In re Wright*, 569 F.2d 1124, 193 USPQ 332 (CCPA 1977).

Allowable Subject Matter

Claims 1-11, 16 and 17 are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (703) 308-2222. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JRB